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March 22, 2021

By ECF

Honorable Paul A. Engelmayer
United States District Judge
Eastern District of New York¹
40 Foley Square
New York, NY 10007

Re: *United States v. Lucio Celli*, 19 Cr. 127 (PAE)

Your Honor:

I write to provide the attached submission from Lucio Celli. He respectfully requests that it be considered together with the other pending motions. Thank you for your consideration.

Respectfully submitted,

/s/ Benjamin Silverman
Benjamin Silverman
Attorney for Lucio Celli

cc: Counsel of Record (by ECF)

¹ Sitting by designation.

USA
v.
Lucio Celli

Case No.: 19-cr-00127

Dear Judge Engelmayer:

Re: Elizbeth "Betsy" Combier harassment, criminal conduct towards me and it is the SAME criminal conduct that the AUSA wants to leave out.

I, Lucio Celli, received two blog post entries from Ms. Combier: one entry was from "nycrubberroomreporter.blogstop.com" and the other entry was from "parentadvocates.org" without a letter to company the entries sent, but the return address was from where Ms. Comiber lives in Manhattan.

Please know that:

- Points 1 and 2 deal with solely on the issue of Betsy Combier placing my health status on her blog and they start on pages 1 and 2
- Point 3 deals with the blogs' tax-exempt status on page 4
- Point 4 deals with me telling Kadijah Young about Betsy and her blogs' tax-exempt status with the fact that both AUSA previously worked with Ms. Young at the 2d. Cir. have not turnover the audio-recording between she and I on page 11.
- Point 5 deals with me telling the US Marshalls about Betsy and her blogs' tax-exempt status on page 12.
- Point 6 deals with the April 16, 2021 conference and the Cronic issues that I am having with my lawyers on page 13
- Point 7 deals with, in part, with Judge Cogan's association with UFT for 20 years and the AUSAs wants to cover up, which is a crime under 18 USC §371 on page 14

Point 1: Court has helped/ignored Betsy harass me

This is not the first time that I have asked a judge to deal with Ms. Combier conduct of posting my HIV status on her blogs on the behave of Randi Weingarten, first and now with the approval of both Randi Weingarten and Judge Cogan. Examples:

1. Magistrate Bloom said, "It's your problem."
2. Judge Brodie said, "You have harassed Ms. Combier."

3. The panel of judges ignored the issue altogether and TWO of the judges were recommended by Senator Schumer

I cannot tell you the dates because I do not have access to the internet

Point 2: Betsy's crimes against me is part of this case

Betsy Combier's current is part and parcel to the current proceeding because Betsy met with Judge Cogan, Peter Zucker, and Randi Weingarten with an unknown name to plan to harass me in and out of court.

Please Take Notice, I informed the US Marshalls and all the readers of emails what group was doing to me.

Please Take Further Notice, AUSA Bensing said that "everything was normal," which is binding because she informed the court that Judge Cogan with others could have Betsy Combier harass me—on February 5, 2019 and in front of Judge Levy, which I informed him that AUSA Bensing was lying to him

The emails are the result of what the court allowed and planned with Betsy do to me and AUSA Bensing said that she would support Betsy's and her conspirators because Robin Gold, esq, of the DOJ, said what Judge Cogan and Randi Weingarten did to me is a crime—with others from the DOJ!!

First, All statements made by the US Marshalls, the AUSA, the DOJ, and the judges are all admissible because they are "**the opposing party in this case**. Any admission by the prosecution and their team is binding in this case because the United States Department of Justice "**is a party opponent of the defendant in criminal cases.**" United States v. Kattar, 840 F.2d 118, 130 (1st Cir. 1988) (quotation omitted). See also Giglio v. United States, 405 U.S. 150, 154 (1972) ("**The prosecutor's office is an entity and as such it is a spokesman for the Government**"). A party's own out-of-court statements are not hearsay when they are offered against that party. See Fed. R. Evid. 801(d)(2)(A)—(D) Nemours & Co., 951 F.2d 613, 619 (4th Cir. 1991).

Second, my conduct is a direct response to Betsy colluding with Judge Cogan and Randi Weingarten and 2 others. "Evidence of the defendants' conduct may be admitted as direct evidence if it arose out of the same transaction or series of transactions as the charged offense, if it is inextricably linked with the charged conduct, or if it is necessary to complete the story of the crimes on trial. See US v Robinson, 702 F.3d 22, 37 (2d Cir. 2012). Evidence will show that Betsy and Peter Zucker harassed me, with the present documents continue the harassment on the behalf of Randi and Cogan and will continue once I am allowed.

The AUSAs are allowed to not to prosecute someone because of discretion, but the AUSAs, as Bensing did on Feb. 5, 2019, are not allowed to cover up or sanction crimes because they are charged for this conduct under 18 USC § 371, which was told me to by many DOJ employees, like Robin Gold.

Third, Federal Rules of Evidence 801(d)(2)(E) was made by part's coconspirator during and in the furtherance of the conspiracy

Betsy Combier's written blogs, just one way she harassed me, is part and parcel of the plan that she forged with Judge Cogan, Randi Weingarten, and Peter Zucker with an unknown. The Supreme Court has held that "A statement is made during the course of a conspiracy when it is made after the conspiracy's formation and before the conspiracy's termination. A conspiracy is terminated when its "central criminal purposes" have been accomplished. Grunewald v. United States, 353 U.S. 391, 401-02 (1957)"

Please Take Notice, Betsy and her conspirators will not stop until court takes action

Fourth, the failure to address the issues contained in this document constitutes a Cronic issue because my lawyers did not develop a defense or alert the court about the conspiracy. The original letter, about Betsy Combier, was written nearly two months ago. Betsy Combier will not stop and circuit with the district court has sanctioned Betsy's collusion with Judge Cogan and Randi Weingarten with others—with the AUSA Bensing normalizing the behavior, but NO ONE ELSE from the DOJ.

Moreover, it is true that my lawyers did submit a letter on by behalf but discourage me from submitting it. This is a blessing and teeters on obstruction. It is a blessing because the letter has become more structured and I was able to hone the issues with the cases my lawyers do not want to present. It teeters on obstruction when my lawyers tell me that keep on stating about Betsy will harm, which is the SAME advice that Ms. Olivera gave me when she withheld evidence that Judge Hurly said would had freed me. Even my current lawyers will not answer why they will not present the evidence, as it is a crime, but they will not explain to me.

In Cronic, the Court cited: *United States v. Ash*, 413 US 300, 309 (1973). If no actual "Assistance" "for" the accused's "defense" is provided, then the constitutional guarantee has been violated. No defense was provided in any briefs, which I couched as "issues" at the December 15, 2020 conference with Your Honor. I addressed the issues and Mr. Silverman and Ms. Silverman; they agreed to fix all issues because it was in January that I planned on getting rid of them, if they did not agree, which I can provide the audio-recordings.

There is no defense provided

Point 3: Betsy's Blogs have Tax Exempt Status

Both "nycrubberroomreporter.blogstop.com" and "parentadvocates.org" are both funded by Ms. Combier's "The E-Accountability foundation," which has IRC 501(c) status (tax exempt statuts). In addition, David Kapel (Ms. Combier's husband) is the "Chief Financial officer" of said foundation, who is Ms. Combier's husband. As I attempted to tell Judge Brodie, Ms. Combier uses Mr. Kapel's passwords to access pacer.gov via his Hunter College account, which is a violation CUNY's term of services and CUNY proves a notice to its employees that it is a crime under CFAA.

The current posts and prior posts of my HIV status violates my right to a fair trial and privacy because she has colluded with Randi Weingarten and Judge Cogan, as Ms. Combier presents, in her blogs, a narrative that covers up a crime under 18 USC § 242 and 18 USC 241 with another one under the Hobbs Act (of pushing me out of my job): Violation of constitutionally valid laws is inconsistent with exemption under IRC 501(c)(3). As a matter of

trust law, one of the main sources of the general law of charity, planned activities that violate laws are not in furtherance of a charitable purpose. "A trust cannot be created for a purpose which is illegal. The purpose is illegal ... if the trust tends to induce the commission of crime or if the accomplishment of the purpose is otherwise against public policy.... Where a policy is articulated in a statute making certain conduct a criminal offense, then ..., a trust is illegal if its performance involves such criminal conduct, or if it tends to encourage such conduct." IV Scott on Trusts Section 377 (3d ed. 1967). Thus, all charitable trusts (and by implication all charitable organizations, regardless of their form) are subject to the requirement that their purpose may not be illegal or contrary to public policy. Rev. Rul. 71-447, 1971-2 C.B. 230; Restatement (Second) of Trusts, Section 377, Comment c (1959). Moreover, by conducting criminal activities, an organization increases the burden of government and thus thwarts a well-recognized charitable goal, i.e., relief of the burdens of government. **PLEASE TAKE NOTICE**, Ms. Combier, without a doubt, violates my right to privacy and my right to a right trial because she claims her blogs entitles her to be part of the press.

I. The Problem of Ms. Combier 501(c) organization

1. Reg. 1.501(c)(3)-1(c)(1) states that an organization will not be regarded as operated "exclusively" for IRC 501(c)(3) purposes if more than an insubstantial part of its activities is not in furtherance of an exempt purpose. The presence of a single non-charitable purpose, if substantial in nature, will destroy the exemption regardless of the number or importance of truly charitable purposes. Better Business Bureau v. United States, 326 U.S. 279 (1945). Therefore, if an organization engages in illegal acts that are a substantial part of its activities, it does not qualify for exemption under IRC 501(c)(3). Below I will show the Court how AUSA Bensing lied to the Court on February 5, 2019 and helped Ms. Combier, Judge Brodie and their gang get away with a crime. **PLEASE TAKE NOTICE**, the purpose filed with the IRS by Ms. Combier is not the same purpose filed in district court and the 2d Cir.

The difference between the purpose Ms. Combier claimed with the IRS, and the purpose she claimed in district court and the 2d Cir. chart:

**The purpose of Ms. Combier's
501(c) written to the IRS
(Please See Exhibit A)**

The E-Accountability Foundation Inc

The goal of the Organization is to enhance and provide a system of accountability in the nation's children education. Through the organization activities and its website, the nation's parents can learn and take an active role in the nation's children's education.

The organization believes that parents and taxpayers should have an active voice and force as to which programs their children participate in, where monies are allocated to and what children should be entitled to as to the quality of their educational opportunities. -

The organization's online magazine is also a tool which seeks to inform and empower parents or guardians of children. The organization believes that we, as a group,

must hold our educational leaders and elected officials accountable for the actions they take vis-à-vis our nation's

**The purpose of Ms. Combier's
501(c) to Judge Brodie and
panel of judges** (Brodie and 2 out 3 panels judges were recommended by Senator Schumer. (Please See the various entries on the docket before the judges or merely the complain)

According to documents submitted by Ms. Combier in court, the blogs are to support her paralegal business.

children. The organization strives to tell and inform parents what those actions are, as well as what can be done to protect and nurture your child while in the system. When our nation's children do not receive a free and adequate education and may be ignored by the elected

officials and the educational system, action needs to be taken immediately and not depend on the system to solve the issues at hand.

Through today's new technology, computers and the internet, we can use those tools to bring about systematic change and make sure that our elected officials and educators are as passionate as parents, taxpayers, and the organization is about putting children first.

From the paperwork filed by Ms. Combier with the IRS:
"Compensation is and will not be paid."

From papers filed as complaints, motions, and briefs: the blogs are a source of "personal income"

Facts:

1. Ms. Combier copied and pasted her blog onto a word document to cover up the true purpose of blog to Judge Brodie and the panel of judges because the blog has the purpose that is written to the IRS and this is on the left side from above (Please See Exhibit A)
2. Ms. Combier CAN change the fact that people will be compensated and paid, which one of returns has Ms. Combier being paid \$10 dollars
3. If the court goes by what amount she claimed that Mr. Portelos and I took, because of defamation, then the amount is 66,000 dollars.
4. Nowhere on any tax returns does Ms. Combier claim 66,000
5. Cash money, which she told me that she referred-on June 24, 2015, must be reported to the IRS, especially when the

fact that Ms. Comber allows her clients, who she paralegals for, to deposit money in her The E-Accountability Foundation Inc account.

6. Any money earned for her paralegal work IS NOT part of the purpose for "The E-Accountability Foundation, Inc because the paralegal work DOES NOT further any aspect of the foundation's purpose filed with the IRS.
7. All monies that ARE NOT related to the purpose of the 501(c) filed with the IRS, those monies MUST be declared and filed under Form 990-T
8. There are receipts on the docket that reflects Ms. Combier's paralegal business, which was paid to the 501(c) and the bases of her lawsuit
9. Ms. Combier even told me that she prefers cash, which is the reason I requested sign-in sheets from the 3020-a hearings.
10. I even requested that Ms. Combier put her paid receipts for pacer.gov, but Judge Brodie ignored the request
11. According to documents filed by Ms. Combier in court, she charges between \$1,500 and \$3,000 a case and this is for her paralegal work
12. According to documents filed by Ms. Combier in court, she had between 20 to 22 clients and prior to the suit.
13. Prior to the lawsuit, Ms. Comiber NEVER filed a Form 990-T with the IRS.
14. On Ms. Combier's website (which has 501(c) status), she declared the check given to her by me as a gift.
15. THE PUBLIC has the right to request the all documents from any organization that has to do with 501(c) status, but Judge Brodie ignored my request
16. The documents are not in discovery, which they should have been because AUSA Bensing made statements of facts that ARE NOT supported by the evidence—on February 5, 2019.
17. The effect of AUSA Bensing's statements on February 5, 2019 was to preclude prosecution of tax invasion because ANY transaction that does not support and help purpose of the foundation, which was submitted to the IRS, is not taxable income by Ms. Combier
18. According to Ms. Combier's various court filings, the income generated by blogs are her personal income.

Please Take Notice: Prosecutors and judges were also indicted for helping people get away with tax evasion. See Grunwald v. US, 353 US 391 (1957), just one case among many.

Please Take Notice: The collection of taxes by judges and prosecutors is a ministerial act.

Question: What constitutes an administrative act and executive act for judges?

As a supervisor of people in their cambers, then the judge could be acting in his/her ministerial capacity; but the supervision cannot have anything to do with any case before the judge (this means hiring, firing, promotion of personnel), so this is where my question comes from. I cannot any definition for administrative act and executive act for judges, but the Supreme Court has mentioned these as acts along with include judicial and ministerial act.

2. The DOJ has taken steps in court to take away 501(c)status from an organization or prosecuted the members for misusing the organization for harassment or other crimes.

Ms. Combier, who has a half of an arm with two fingers; she camouflages her deformity by wearing long sleeves, even in the summer, and the camouflages comes from a place of vanity and the knowledge that people will look with the possibility that someone would ask. Most people who deal with Ms. Combier, they do not realize does not have two normal arms with five fingers on each hand. **Therefore**, Ms. Combier is aware that there is a still a stigma and fear around HIV and attempts to incites fear in the parents that I teach, which is the reason she has posted my with my HIV on a few occasions: The conduct of illegal activities to a substantial degree is also a bar to exemption under IRC 501(c)(4). Reg. 1.501(c)(4)-1(a)(2)(i) provides that an organization is operated exclusively for the promotion of social welfare if it is primarily engaged in promoting in some way the common good and general welfare of the people of the community. It is an organization that is operated primarily for the purpose of bringing about the civic betterments and social improvements. Illegal activities, which violate the minimum standards of acceptable conduct necessary to the preservation of an orderly society, are contrary to the common good and the general welfare of the people of the community and thus are not permissible means of promoting social welfare for purposes of IRC 501(c)(4). Rev. Rul. 75-384, 1975-2 C.B. 204.

II. New York State Conflict of Interest

I am also submitting this information to NYS' conflict of interest board because David Kappel allowed his (Ms. Combier) wife to use state recourses, like the paid services of pacer.gov and used them for 501(c).

Please Take Notice, Public Officer Law §74 and Public Officer Law § 30 governs ethics for New York State employees, like 18 USC §§201 through 208 governs federal employee and, to a degree, 28 USC § 455 of the recusal statute incorporated judicial ethics in the 1974 revision (whatever is found in 455(b)).

Below are the standards and I believe with the evidence presented to Your Honor; Your Honor will understand how David Kappel helped his wife, Ms Combier because Mr. Kappel is the chief financial officer for his wife's 501(c).

Standards of Conduct (See Exhibit C)

The Code of Ethics contains nine standards of conduct. Each standard examines the types of conflicts that State officers and employees are prohibited from engaging in while in State service.

- **Impartiality:** maintaining independent judgment with respect to your State job. (Standard A)
- **Confidentiality:** understanding the types of information that may be shared with colleagues and members of the public, not sharing confidential information acquired in the course of performing official duties, and not using confidential information to benefit yourself or someone else. (Standards B and C)
- **Stewardship of State resources:** preventing you from using your official position to secure unwarranted benefits or favors for yourself or others, and not utilizing the resources of the State for your own personal use. (Standard D)
- **Financial conflicts:** abstaining from personal investments that conflict with your official duties, and avoiding transactions with any entity in which you may have a direct or indirect financial interest. (Standards E and G)

- **Integrity standards:** avoiding situations in which it may appear you could be influenced or would attempt to influence someone else and conducting yourself in a manner that does not raise suspicion among the public that you're personally benefitting from your official position. (Standards F and H)
- **Business with the State:** as a State officer or employee, you are restricted from contracting for work and/or providing goods and services to entities that are licensed or regulated by your agency. Circumstances do exist that may allow you to concurrently work for both. (Standard I)

Point 4, Kadijah Young, Clerk of the 2d Cir.

1. Ms. Bensing has the audio-recording between Ms. Young and I
2. Ms. Young lied/withheld, from the US Marshalls, the fact that she committed the crime of impeding my right to petition the government (under 18 USC §241) in court, then it is a crime under obstruction of justice, and then it is a crime about court dockets—I do not remember the statute numbers, but I have court cases where clerks were charged under any one of them
3. In the audio-recording withheld, Your Honor will hear me state, "are you telling me that the Court told you to commit a crime?"
4. Most importantly, Your Honor will hear me tell Ms. Young about the tax evasion known to the judges and the perjury.
5. According to my former lawyers—all audio-recorded, Ms. Bensing can either lie for Ms. Combier and the judges about their crime or she can ignore the facts.
6. I have told each of my lawyers that Ms. Bensing DOES NOT have the discretion to hide facts or **agree** not to prosecute a crime, which is happening in this case.
7. If Ms. Bensing did not lie to cover up everyone's, then it would not be colorable that Ms. Bensing agreed not to prosecute crimes against the judges, Randi Weingarten, and Ms. Combier, as I have Ms. Gold, of the DOJ, who said that what Randi/UFT and Judge Cogan did is, IN FACT, a crime—if those are the facts, but I do know the facts.
8. My home phone is monitored and audio-recorded by pretrial services and I have a document that I signed March 29, 2019

Ms. Young would not file documents in the 2d Cir. because "the court told her." I attempted to elicit the Chief Judge Robert Katzman, the former chief judge of the 2d Cir., told Ms. Young to commit the crime.

It is a crime under three statutes, but most importantly, it is a crime under 18 USC § 241 because Ms. Young, "the Court" is a supposed person (according to Ms. Young), Ms. Bensing, and Mr. Hueston all colluded to hide the audio-recording from Judge Donnelly.

I have Mr. Hueston and I audio-recorded speaking about him asking Ms. Bensing for the audio-recording between Ms. Young and me. There are various answers, but Mr. Hueston lied and said that pretrial services was not monitoring or audio-recording my phone line.

I have an audio-recording of Michael Hueston and I, where he tells me that AUSA Bensing will not handover the audio-recording and then telling the audio-recording does not exist

Please Take Notice, AUSA Bensing has evidence of a crime and has destroyed it, like they did for the MDC Brooklyn calls.

Point 5: US Marshalls

1. Facts

- a. The US Marshalls omitted the fact that Judge Cogan used his office for his former clients the UFT
- b. The US Marshalls omitted the fact that Ms. Combier criminal conduct in front of Judge Brodie, like tax evasion and perjury with other forms of misconduct, which was known to Judge Brodie and to the panel of judges via my emails
- c. The US Marshalls omitted the fact that I emailed Chief Judge Katzman, as means to provide his knowledge because what Judge Cogan and Judge Brodie falls under misconduct and a chief judge was enforced to retire instead of facing impeaching charges.
- d. The US Marshalls omitted the fact that I emailed Senator Schumer on or around 12/11/17 because Ms. Combier has Randi Weingarten audio-recorded paying Judge Marrero money.

Because the Supreme Court has held that the making of a false police report or the presentation of false evidence at trial is a due process violation by itself, the right is not established by pre-existing law according to US. v Lanier, 520 US 259, 264 (1997).

There is more missing from the police report and it is a colorable crime under 18 USC §241.

The complete information is in a letter just about the US Marshalls

Point 6: April 1, 2021 Conference

Before to Your Honor issuing any order on April 16, 2021 or before, we must discuss if there is a need for new counsel and me asking for a continuance. At the present time, the issues are

1. The change of venue did not list all issues that shows that I will not receive a fair trial in the 2d Cir.
2. Recusal of both AUSAs because they worked for the 2d Cir. and have helped to cover certain judges' crimes, which is a colorable under 18 USC § 208 (conflict of interest crimes and enacted after "Watergate.") This hold true for Kadiah Young because the AUSA is withhold evidence of crime Kadiah Young committed against me.
3. I have asked to see AUSA signed waivers; I need this document prior to filing an action under Administrative Procedure Act because this is another way to force recusal, as Ms. Bensing committed over 30 crimes against me.
4. The issue of detention/retro payment, which the retro payment is related to Judge Cogan and Randi Weingarten.
5. Michael Drom lied to the court about what my mental counselor said about my mental health status because I have Mr. Weiss audio-recorded and it does not match was Mr. Drom told the court
6. Sanitation against Ms. Bensing for lying to the court and committing colorable crimes under 18 USC §242 and 18 USC §241
7. Judge Donnelly, Mr. Hueston, Ms. Bensing committed a crime against under 18 USC §13 because they obstructed justice in my New York State case under NYS PL §195
8. Either or both Ms. Bensing and Ms. Olivera gave someone (Judge Cogan or Randi Weingarten) my personal health information because Susan Edelman of the NY POST told me she has my personal health information!!
9. Your Honor's memory of how you became a judge is an issue because if Your Honor cannot remember the process; then it is a colorable due process violation, which I shared the caselaw that deal with mental illness or the impeachment trial of Judge Portous because he lied about his association.

10. My legal team forgot to develop a clear defense, like I wanted justice with other defenses
11. Subpoena emails from the UFT, DOE, and other entities, like the judges
12. Subpoena financial records of former lawyers and judges
13. The DOJ has not handed over ANY exculpatory evidence, but evidence that my lawyers could access on their own, which is a BIG reason for sanctions against the DOJ.

Now, Mr. Silverman and Ms. Silverman informed that they will fix the issue and the issues mentioned in this document are not the only ones, but this is where we need to start prior to any trial because the problems that I am raising are constitutional ones. **Two month later**, my lawyers are ignoring the issues and my lawyers have not corrected what Catherine, the social worker they hired, told me, so I am assuming that they are not. They do read the letters

Please Take Notice, I have asked for the judges' emails and the audio recordings from MDC Brooklyn, which are part of the basis of sanctions against Brady v. Maryland, 373 U.S. 83, 87 (1963), the Court said that "suppression by the prosecution of evidence favorable to an accused upon request violates due process"

Point 7: Judge Cogan

1. Ms. Bensing worked for 2d. Cir and EDNY prior to being employed by the DOJ
2. Ms. Bensing has withheld evidence of Betsy Combier's meeting with Judge Cogan, Randi Weingarten and two others.
3. Judge Cogan was of council for the UFT from the last 1980s through 2004, when he left to become a federal judge.
4. Ms. Bensing has withheld audio-recordings from MDC Brooklyn

I am asking the court to hold Ms. Bensing accountable for lying about Judge Cogan and about her association with the 2d Cir. because her conduct is colorable under 18 USC 208

Conclusion

I inform the Court that my legal team and I are not ready for a trial in May of this year because my prior lawyers did not do any work and the DOJ has withheld evidence so that they could craft a clear defense their brief.

I, also, inform the Court of their ministerial duty of collecting taxes from Ms. Combier and hold Ms. Bensing accountable for cantor for her lie on February 5, 2019

If Your Honor looks at the brief lied either civil case, in the 2d Cir., I inform the Court, via case law, that it is incumbent upon the court, like Your Honor, to protect the integrity, but I open that Your Honor ignores the facts because that what Randi Weingarten (Schumer's supposed "like sister") paid Judge Marrero (Schumer recommended).

Please Notice Take: Your Honor is videotaped and cited Justice Marshall on the importance of facts with Justice Kagan.

I do not remember if the video appears on the Federal Judicial Center or the regular court website or somewhere else.